

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

GERALD C. NANNINGA,

Plaintiff,

v.

ORDER

Civil File No. 04-882 (MJD/JSM)

BEST BUY CO., INC.,

Defendant.

Steven Andrew Smith and Katherine C. Bischoff, Nichols Kaster & Anderson,
PLLP, Counsel for Plaintiff.

Charles O. Lentz, Ryan D. Chandlee, Thomas C. Mahlum, Robins Kaplan Miller &
Ciresi LLP, Counsel for Defendant.

The above-entitled matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Janie S. Mayeron dated August 10, 2005. Plaintiff Gerald C. Nanninga filed objections to the Report and Recommendation. Defendant Best Buy Company, Inc., filed a response to those objections.

Pursuant to statute, the Court has conducted a de novo review of the record. 28 U.S.C. § 636(b)(1); Local Rule 72.1(c). Based on that review the Court adopts the Report and Recommendation dated August 10, 2005.

Accordingly, based upon the files, records, and proceedings herein, **IT IS**

HEREBY ORDERED that:

1. The Magistrate Judge's Report and Recommendation dated August 10, 2005, [Docket No. 83] is hereby **ADOPTED**.
2. Defendant's Motion for Summary Judgment [Docket No. 41] is **DENIED WITHOUT PREJUDICE** as to Count I and **GRANTED** as to Counts II, III, IV, V, and VI.
3. Plaintiff's Motion for Summary Judgment [Docket No. 48] is **DENIED WITHOUT PREJUDICE** as to Count I and **DENIED WITH PREJUDICE** as to Count VI.
4. Counts II, III, IV, V, and VI of the Amended Complaint are **DISMISSED WITH PREJUDICE**.

Dated: September 20, 2005

s/ Michael J. Davis
Judge Michael J. Davis
United States District Court